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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,419	09/30/2005	Claudio Borean	09952.0003	4050
22852	7590	11/09/2009		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER AGHDAM, FRESHTEH N	
			ART UNIT 2611	PAPER NUMBER
			MAIL DATE 11/09/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,419

Applicant(s)

BOREAN ET AL.

Examiner

FRESHTEH N. AGHDAM

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-25, 27-31 and 33-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-25, 27-31, and 33-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 22, 2009 has been entered.

Response to Arguments

Applicant's arguments filed October 22, 2009 have been fully considered but they are not persuasive.

Applicant's Argument(s):

Regarding rejection of claims 42-44 under 35 U.S.C. 112, first paragraph, at page 9, the Applicant argues "The Final Office Action alleged that "at least one of the 'computer readable medium' and 'internal memory' [recited in claims 42-44] was not described in the original disclosure of the invention." Final Office Action, pages 2-3. This is incorrect. The above-quoted claimed elements are supported by the specification at, for example, page 3, lines 5-11. Specifically, the specification discloses "computer program products directly loadable into the memory of a computer."

Regarding pending claims 23-44, at pages 10-11, the Applicant argues "One of ordinary skill in the art at the time of the invention would not have been motivated to implement a WLAN network which shares more than one channel at a time, at least because the current standards would not suggest so doing ... Prior Art discloses that "[a]s in existing standards, in the arrangement according to the MEDIAN Project, only a single channel (200 MHz) is used to implement a WLAN network." Specification, page 2, lines 13-15. That is, even in the arrangement of MEDIAN Project, a WLAN network with OFDM modulation scheme is still implemented in accordance with existing standards with "only a single channel."

Examiner's Response:

Regarding the first argument set forth above, Examiner disagrees with the Applicant because the cited portion of the specification does not provide proper support for "computer readable medium", and therefore, it constitutes new matter.

Regarding the second argument set forth above, Examiner would like to direct the Applicant's attention to the fact that the difference between prior art and the claimed subject matter is **a matter of design choice/requirement** (emphasis added) since both ways of communicating information have been practiced, therefore, it comes down to what the design constraint is (in this case maximizing signal processing speed or minimizing number of channels being shared (e.g. spectrum efficiency)).

In addition, MPEP requires that *"Prior art is not limited just to the references being applied, but includes the understanding of one of ordinary skill in the art. The prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. The "mere existence of differences between the prior art and an invention does not establish the invention's nonobviousness." Dann v. Johnston, 425 U.S. 219, 230, 189 USPQ 257, 261 (1976). The gap between the prior art and the claimed invention may not be "so great as to render the [claim] nonobvious to one reasonably skilled in the art." Id . In determining obviousness, neither the particular motivation to make the claimed invention nor the problem the inventor is solving controls. The proper analysis is whether the claimed invention would have been obvious to one of ordinary skill in the art after consideration of all the facts. See 35 U.S.C. 103(a). Factors other than the disclosures of the cited prior art may provide a basis for concluding that it would have been obvious to one of ordinary skill in the art to bridge the gap."* MPEP 2141 [R-6]

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 42-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 42-44 include subject matter "A computer readable medium encoded with a computer program product directly loadable into an internal memory of a computer, the computer program product including software code portions performing the method of ...", in which at least one of the "computer readable medium" and "internal memory" was not described in the original disclosure of the invention.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 42-44 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The phraseology "computer readable medium" was not defined in the specification, and therefore, it could be directed to non-statutory subject matter when making the broadest reasonable interpretation of the claimed subject matter.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-25, 27-31, and 33-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over the instant application's disclosed prior art.

As to claims 23, 25, 28-29, 34, the instant application's disclosed prior art teaches a method of and/or an apparatus for managing a transmission system wherein a plurality of sets of samples is subject to an integral transform (e.g. IFFT) transmitted in said integral transformed format over a millimeter-wave carrier (fig. 1, pg. 5, lines 14-21) and subject to a complementary integral transform (FFT) to reconstruct said plurality of sets of samples in the receiver (pg. 7, lines 22-26), comprising: including in said system a plurality of terminals (pg. 1, lines 20-27; pg. 9, lines 16-35); assigning to said terminals respective non-overlapping sets of samples or positions within said plurality of sets of samples (pg. 9, lines 16-35); and transmitting a set of non-zero samples pertaining to a first terminal of said plurality of terminals by inserting said samples in the respective position assigned to said first terminal (pg. 9, lines 16-35). The instant application's disclosed prior art does not expressly teach that the sample sets are non-overlapping (e.g. the plurality of sample sets do not occupy the same positions/subspace in the buffer); and transmitting, simultaneously, first and second sets of non-zero samples pertaining to the first and second

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terminals. One of ordinary skill in the art would recognize that it is obvious and/or a matter of design choice to assign different/distinct (non-overlapping) subspaces in a buffer to different sets of samples belonging to different terminals in order to transmit the first and second non-zero samples simultaneously (see references cited under conclusion) since by doing so the signal processing speed increases, on the other hand, if the same subspace in a buffer is assigned to different sample sets belonging to different terminals the signal processing speed decreases but the other subspaces in the buffer is reserved for other tasks. Therefore, it would have been obvious to one of ordinary skill in the art to modify the teaching of the instant application's disclosed prior art to assign different/distinct (non-overlapping) subspaces in a buffer to different sets of samples belonging to different terminals instead of assigning a single subspace in the buffer to different sample sets belonging to different terminals for the reason stated above.

As to claims 24 and 30, the instant application's disclosed prior art further teaches including at least one further terminal adapted for exchanging samples with said plurality of terminals and causing said at least one further terminal to subject to at least one of said integral transform and said complementary integral transform a plurality of sets of samples including at least two overlapping sets of non-zero samples pertaining to at least two of the plurality of terminals (pg. 13, lines 12-21).

As to claims 27, 33, 36-37, 40-41, the instant application's disclosed prior art teaches transmitting said samples in said integral transformed format over a millimeter-wave carrier (pg. 2, lines 4-12).

As to claim 31, the instant application's disclosed prior art teaches at least one further terminal is an access point of a WLAN network (pg. 2, lines 13-16; pg. 13, lines 12-21).

As to claim 35, the instant application's disclosed prior art teaches allocating at least a single set of non-zero samples in a single respective set of positions of said buffer, which is indicative of said transmitter terminal (pg. 1, lines 20-27; pg. 9, lines 16-35).

As to claims 38-39, the instant application's disclosed prior art teaches a receiver for receiving samples transmitted in said integral transformed format (pg. 1, lines 20-27; pg. 9, lines 16-35); a complementary integral transform module for subjecting said sets of samples to a complementary integral transform and reconstructing therefrom said at least one set of nonzero samples (pg. 1, lines 20-27; pg. 9, lines 16-35). The instant application's disclosed prior art does not expressly teach a buffer for receiving said plurality of sets of samples (means 43; pg. 9, lines 16-35); and allocating at least one set of the nonzero samples to the respective positions of said buffer. However, one of ordinary skill in the art would recognize that employing a buffer complementary to the buffer 43 employed in the transmitter and allocating the set of nonzero samples to a subspace of the buffer is obvious and/or well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to employ a buffer and allocate the set of

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received nonzero samples to the respective subspace of the receive buffer (complementary to the transmit buffer) in order to further process the received signal and be compatible with the transmitter device.

As to claims 42-44, one of ordinary skill in the art would recognize that it is obvious and/or well known in the art to perform various signal processing tasks using a computer program product loadable in the internal memory of a computer and including software code portions. Therefore, it would have been obvious to one of ordinary skill in the art to use a computer program product to perform various signal processing tasks.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRESHTEH N. AGHDAM whose telephone number is (571)272-6037. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on 571-272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. N. A./

Examiner, Art Unit 2611

/CHIEH M FAN/

Supervisory Patent Examiner, Art Unit 2611